



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA- R09-OAR-2012-0728; FRL 9775-8]**

Revisions to the California State Implementation Plan, South Coast Air Quality Management District, Proposed Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule.

**SUMMARY:** EPA is proposing to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are proposing to approve local rules that address volatile organic compound (VOC) emissions from municipal solid waste landfills and livestock waste. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

**ADDRESSES:** Submit comments, identified by docket number, EPA-R09-OAR-2012-0728, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or email. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the

index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** La Weeda Ward, Air Division, U.S. Environmental Protection Agency, Region 9, (213) 244-1812, email: ward.laweeda@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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### The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Adopted	Submitted
SCAQMD	1150.1	Control of Gaseous Emissions from Municipal Solid Waste Landfills	04/01/11	09/27/11
SCAQMD	1127	Emissions Reductions from Livestock Waste	08/06/04	10/05/06

On October 24, 2011 and October 24, 2006, EPA determined that the submittals for SCAQMD Rules 1150.1 and 1127, respectively, met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved an earlier version of Rule 1150.1 into the SIP on July 1, 2002 (67 FR 44062). SCAQMD adopted revisions to the SIP-approved version on April 1, 2011 and CARB submitted them to us on September 27, 2011.

C. What is the purpose of the submitted rule and rule revision?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. EPA's technical support documents (TSD) have more information about these rules.

SCAQMD Rule 1150.1, "Control of Gaseous Emissions from Municipal Solid Waste Landfills," is an amended rule that regulates landfill gas emissions. The submitted rule applies to both active and inactive municipal solid waste (MSW) landfills and defines an active MSW landfill as one that has received solid waste on or after November 8, 1987.

The two previous versions of Rule 1150.1 (April 10, 1998 and March 10, 2000) focused on controlling VOC emissions, as well as toxic air contaminant (TAC) emissions. SCAQMD's intent was to reduce the contribution of these pollutants to atmospheric ozone, avoid public nuisance complaints from odorous compounds, and prevent the detriment to public health caused by such emissions.

Increased focus on controlling greenhouse gases (GHGs) led to the enactment by the California Legislature of Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. SCAQMD's

primary purpose for revising Rule 1150.1 is to incorporate provisions to achieve equivalency with an AB 32 early action measure, the Landfill Methane Regulation (California Code of Regulations, Title 17, Sections 95460 to 95476). We note that the revisions to Rule 1150.1 also enhance the regulation of VOCs by improving the rule's overall enforceability through clarifications of standards for already-required controls and the streamlining of duplicative recordkeeping and reporting requirements.

SCAQMD Rule 1127 was adopted on August 6, 2004. The purpose of the rule is to reduce emissions of ammonia, VOC and particulate matter under 10 microns (PM10) from dairies. Applicable operations include dairies, heifer, and calf farms within the SCAQMD's jurisdiction. It also applies to manure processing operations, such as composting operations and anaerobic digesters.

Rule 1127 was designed to implement the 2003 Air Quality Management Plan (AQMP) control measure, WST-01, and establish Best Available Control Measure (BACM) requirements for dairies pursuant to Senate Bill (SB) 700 (Florez) signed by California governor Gray Davis on September 22, 2003. SB 700 required applicable non-attainment areas to remove exemptions for certain agricultural operations from permitting requirements. EPA is

evaluating the rule provisions for conformance with reasonable available control technology (RACT) requirements pursuant to Clean Air Act (CAA) Section 182(b)(2).

## **II. EPA's Evaluation and Action**

### **A. How is EPA evaluating the rules?**

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require RACT for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rules 1150.1 and 1127 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. The revisions to Rule 1150.1 strengthen the rule by improving enforceability and streamlining duplicative requirements. Rule 1127 meets the RACT criteria by implementing control technology that is reasonably available, considering technological and economic feasibility. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules.

EPA has no recommendation to further improve Rule 1150.1. We do have recommendations to improve Rule 1127 which are detailed in the TSD.

D. Public comment and final action.

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

### **III. Statutory and Executive Order Reviews**



Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act

of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this

action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: January 23, 2013                      Jared Blumenfeld,  
Regional Administrator,  
Region IX.

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